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QUESTION OF THE VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Cooperation with representatives of United Nations human rights bodies

Report of the Secretary-General submitted in accordance with Commission on Human Rights resolution 1995/75

Introduction

1. At its fifty-first session, the Commission on Human Rights adopted resolution 1995/75, entitled "Cooperation with representatives of United Nations human rights bodies". In this resolution, the Commission reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who sought to cooperate with the United Nations and representatives of its human rights bodies and at reports about incidents where private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms, urged Governments to refrain from all acts of intimidation or reprisal against: (a) those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them; (b) those who avail or have availed themselves of procedures under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose; (c) those who submit or have submitted communications under procedures established by human rights instruments; and (d) those who are relatives of victims of human rights violations.

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2. The Commission requested all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way and to help prevent the occurrence of such intimidation or reprisals, as well as to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities or the General Assembly a reference to allegations of intimidation or reprisal and of hampering of access to United Nations human rights procedures, as well as an account of action taken by them in that regard.

3. The Commission requested the Secretary-General to draw the attention of such representatives and treaty bodies to the resolution and invited him to submit to the Commission at its fifty-second session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in the resolution.

I. INFORMATION RECEIVED PURSUANT TO COMMISSION ON ON HUMAN RIGHTS RESOLUTION 1995/75 AND ACTION TAKEN BY REPRESENTATIVES OF HUMAN RIGHTS BODIES

4. This chapter contains a summary of the information received pursuant to resolution 1995/75. It covers a variety of situations in which persons have been intimidated or suffered reprisals for having: cooperated with United Nations human rights bodies; availed themselves of international procedures; provided legal assistance for this purpose; and/or been relatives of victims of human rights violations.

5. In cases in which the victims, whether individuals or organizations, had been in contact with one of the bodies or mechanisms of the Commission on Human Rights, action was taken, whenever requested, for their protection by the pertinent body or the representative in charge of the relevant mandate of the Commission. In the majority of cases urgent communications were addressed to the Government concerned. The prompt intervention procedure is described in a previous report to the Commission (see E/CN.4/1992/29, paras. 14-18). Where applicable, the replies received from the Governments to these communications have been included in the present report.

6. It must be noted that the summaries included in this report reflect urgent appeals and replies from Governments only to the extent that they have been included in the latest reports presented by each mechanism to the Commission on Human Rights.

A. Special Rapporteur on extrajudicial, summary or arbitrary executions (see E/CN.4/1996/4)

7. During 1995, the Special Rapporteur continued to send urgent appeals, in accordance with resolution 1995/75, urging the Governments concerned to adopt protection measures, in cases in which victims of human rights violations, witnesses, relatives or their lawyers were being threatened or intimidated and were reportedly at risk of extrajudicial execution.

Argentina

8. On 5 April 1995, the Special Rapporteur sent an urgent appeal to the Government of Argentina, in which he expressed concern for the safety of María Alejandra Bonafini, daughter of the President of the organization Mothers of the Plaza de Mayo, after she had received death threats in relation to her mother's work.

9. By communication dated 27 September 1995, the Government of Argentina replied to the urgent appeal sent on behalf of María Alejandra Bonafini, stating that investigations into the case had been initiated by the competent authorities.

Burundi

10. The Special Rapporteur refers, in the report of his mission to Burundi in April 1995 (E/CN.4/1996/4/Add.1), to the death threats received by the representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the commander of the Organization of African Unity Mission of Observation in Muyinga province. He also refers to threats against the Special Representative of the Secretary-General in Burundi which were published in various local newspapers. All three had cooperated with United Nations human rights bodies and mechanisms, including the Special Rapporteur. The killing, in August 1994, allegedly by military personnel in Kirundo of a member of UNHCR, who reportedly had been investigating the massacre of more than 100 refugees in Kiri, Kirundo, is also mentioned in the Special Rapporteur's report.

Colombia

11. Members of human rights organizations which had cooperated with the United Nations human rights procedures continued to be victims of intimidation and threats by the security forces. The Special Rapporteur sent two urgent appeals, dated 7 December 1994 and 20 January 1995, on behalf of Luis Guillermo Pérez Casas, Alirio Uribe Muñoz, Eduardo Carreño Wilches, Reinaldo Villalba Vargas, Pedro Julio Mahecha Avila, Rafael Barrios Mendívil and Katia Karina Niño Vargas, members of Corporación Colectivo de Abogados "José Alvear Restrepo" after they had received death threats because of their work as human rights lawyers. A third urgent appeal requesting their protection was sent on 22 June 1995, after one of the members of the organization, Javier Alberto Barriga Vergel had been killed.

12. By communications dated 2 February and 28 March 1995, the Government informed the Special Rapporteur that investigations had started and measures had been adopted to protect the life and physical integrity of the above-mentioned persons. By a communication dated 22 August 1995, the Government further informed him that investigations into the killing of Javier Alberto Barriga Vergel were under way.

Guatemala

13. On 16 February 1995, the Special Rapporteur sent an urgent appeal on behalf of Senayda Cana Chanay, a member of the Grupo de Apoyo Mutuo por el Aparecimiento con Vida de Nuestro Familiares (GAM). Reportedly, she had been harassed by the same police officers who had been assigned to protect her after an attempted attack on her life.

14. On 13 March and 11 April 1995, the Special Rapporteur requested the authorities to adopt the necessary measures to protect the life of Miguel Sucuquí Mejía, Juana Tipás Gonzáles, Emilia García, Samuel Hernández, Daniel Pascual Hernández and Guillermo Fernández, representatives of Frente Nacional de Organizaciones de Derechos Humanos en Guatemala. Fears had been expressed that they could suffer acts of reprisal upon their arrival in Guatemala because of their attendance at the fifty-first session of the Commission on Human Rights.

15. According to a Government reply dated 6 June 1995, investigations were under way in the case of Senayda Cana Chanay.

Peru

16. On 30 June 1995, the Special Rapporteur sent an urgent appeal on behalf of: Antonia E. Saquicuray Sánchez (a judge); Ana Cecilia Magallanes (a prosecutor); relatives of the victims of the Barrios Altos massacre and of the La Cantuta massacre; General Rodolfo Robles Espinoza (a dissident army officer); and Tito Guido Gallegos Gallegos (a human rights lawyer). All of them had received death threats for having expressed their opposition to the amnesty law, promulgated in June 1995, which closed all investigations and judicial proceedings linked to past violations of human rights.

17. Two other urgent actions on behalf of Tito Guido Gallegos Gallegos were sent on 17 July and 11 September 1995, after the Special Rapporteur had been informed that he was continuing to receive death threats in connection with his work in defence of victims of human rights violations.

18. In a communication dated 14 July 1995, the Special Rapporteur expressed concern for the life of Gloria Cano Legua, the lawyer of a survivor of the Barrios Altos massacre, after she had received death threats because of her work.

19. Another urgent appeal was sent on 21 November 1995, on behalf of: Susana Villarán, Francisco Soberón and Ernesto de la Jara (human rights activists); Gisela Ortíz and Raida Condor (relatives of La Cantuta victims); Heriberto Benítez (a lawyer); General Rodolfo Robles (a dissident army officer); and Henry Pease, Javier Diez Canseco and Gustavo Mohme (Congressmen), after a wreath in the shape of a cross and a message threatening them with death was delivered at the offices of Asociación Pro Derechos Humanos (APRODEH).

20. This death threat was sent by members of a death squad allegedly linked to the Servicio de Inteligencia del Ejército. The aforementioned persons had been active for the revocation of the amnesty law which came into effect in Peru in June 1995.

21. It should be noted that on 2 August 1995, the Special Rapporteur on the question of torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Chairman of the Working Group on Enforced or Involuntary Disappearances had issued a communication addressed to the Government expressing their deep concern over the adoption of such a law. They stressed the fact that the amnesty law favoured impunity, denied the right to an effective remedy for victims of human rights violations, and was contrary to the spirit of international human rights instruments.

22. According to the Government reply, dated 9 October 1995, measures to protect the life of Gloria Cano Legua had been adopted. The reply also stated that there were no indications that the armed forces were responsible for the death threats.

Swaziland

23. On 17 July 1995, the Special Rapporteur sent an urgent appeal to the Government of Swaziland, asking for protection for Jan Sithole, Secretary-General of the Swaziland Federation of Trade Unionists, who had been receiving death threats from members of the police, after an increase in tension between the Government and trade unionists. The information received by the Special Rapporteur indicated that, in June 1995, after Jan Sithole returned from attending an International Labour Organization (ILO) conference in Geneva, the Chief Immigration Officer had ordered him to surrender his passport. Mr. Sithole was threatened with deportation to Mozambique.

B. Working Group on Enforced or Involuntary Disappearances (see E/CN.4/1996/38)

24. As in previous years, the Working Group sent urgent communications to Governments, in accordance with resolution 1995/75, urging the authorities to adopt protection measures in cases in which relatives of missing persons or other individuals or organizations which had cooperated with the Working Group, as well as their legal counsel, were being subjected to intimidation, persecution or reprisals. In such cases, the Working Group requested that it be informed of investigations carried out and protection measures adopted.

Colombia

25. On 22 August 1995, the Working Group sent a "prompt intervention" cable to the Government of Colombia, after being informed that Mr. Italo Rodríguez Carvajal was receiving death threats because of the actions he was undertaking to clarify the disappearance and subsequent killing of his brother, Alvaro Rodriguez Carvajal. Another prompt intervention was sent on 14 September 1995, on behalf of Yanette Bautista, President of the Asociación de Familiares de Detenidos Desaparecidos (ASFADDES) (Association of Relatives of Disappeared Detainees) after she had been intimidated and harassed because

of her work. In the same cable the Working Group referred to Astrid Liliana González Jaramillo and Sandra del Pilar Ubate Monroy who had received death threats urging them to refrain from testifying before the Fiscalía Regional de Cali in the framework of the investigations into the disappearance of John Ricardo Ubate and Gloria Bogota. The threats came from men who identified themselves as belonging to the Fiscalía General de la Nación and the Servicio de Investigaciones Judiciales e Inteligencia (SIJIN). A second prompt intervention on their behalf was sent on 4 October 1995.

Ecuador

26. On 14 February 1995, a "prompt intervention" cable was sent to the Government of Ecuador on behalf of members of human rights organizations and relatives of missing persons who regularly meet to request official investigations into cases of disappearances, after they had been subjected to acts of intimidation and harassment, reportedly by members of the National Police. In the same communication, the Working Group referred to Hugo España Torres, a former National Police officer whose testimony had been crucial in the judicial investigation of the disappearance of Carlos Santiago and Pedro Andrés Restrepo. According to the information received, he was being threatened by members of the National Police after he had accused members of the National Police of being involved in the disappearance of the Restrepo brothers.

Guatemala

27. On 22 August 1995, the Working Group sent a "prompt intervention" cable to the Government of Guatemala requesting protection for the following persons: Dr. Eduardo Arango Escobar, the Fiscal (prosecutor) appointed to investigate the disappearance of Efrain Bamaca, a leader of the armed opposition; Jennifer Harbury (Mr. Bamaca's wife); and Angel Chizas García, a former soldier who testified that he had seen Bamaca in custody at a military base, after the army had reported his death in combat. Both the prosecutor and the former soldier had allegedly received continuing death threats. Mr. Bamaca's wife was reportedly confronted by approximately 40 people sent to the proposed exhumation site to intimidate her.

Honduras

28. On 15 August 1995, the Working Group sent a "prompt intervention" cable to the Government of Honduras requesting protection for: Leonel Casco Gutierrez, a member of the Comité de Familiares de Detenidos-Desaparecidos en Honduras (COFADEH) (Committee of Relatives of Disappeared Persons in Honduras) relatives of Juan Pablo Rivas Calderón, a retired army officer killed on 4 January 1995 after having accused a former high official of the armed forces of acts of corruption; his son, Juan Pablo Rivas Jeresano, who had suffered an attempted attack on his life; members of the Oficina del Comisionado Nacional de Protección de los Derechos Humanos (Office of the National Commissioner for the Protection of Human Rights), of COFADEH and of the Comité para la Defensa de Derechos Humanos en Honduras (CODEH), (Committee for the Defence of Human Rights in Honduras, after they had received death threats urging them to

refrain from investigating cases of disappearance; and journalists of the daily newspaper Tiempo, after they received death threats for having published news regarding investigations carried out to clarify the fate of missing persons in Honduras.

Mexico

29. The Government of Mexico sent the Working Group a response, dated 11 January 1995, to its prompt intervention cable of 27 September 1994 concerning reports of alleged acts of intimidation, harassment and reprisal against members of the Committee of Relatives of the Disappeared, "Eureka"; the Fray Francisco Vitoria Human Rights Centre; the National Independent Committee for the Defence of those Imprisoned, Persecuted, Disappeared and in Political Exile; and the Centre for Information on and Monitoring of Human Rights in Mexico (see E/CN.4/1995/53, para. 11). According to the Government, the authorities allegedly responsible had denied any involvement in the matter. In this context, the Mexican National Commission for Human Rights had sent an official communication to the non-governmental organizations concerned requiring them to provide stronger evidence in support of their complaints, so that the proper course to be followed in that respect could be determined.

C. Special Rapporteur on the question of religious intolerance (see E/CN.4/1996/95)

China

30. On 31 August 1995, the Special Rapporteur sent a letter to the Government of China in which he referred to the fact that Mr. Yulo Dawa Tsering, a senior Tibetan monk released on 6 November 1994 who had met the special Rapporteur during his visit to China from 19 to 30 November 1994 (E/CN.4/1995/91), was being held incommunicado in a house in Rabses district of Lhassa. The Special Rapporteur reminded the authorities of their commitment, made during his visit, that Mr. Yulo Dawa Tsering would not incur any negative consequences as a result of meeting with the Special Rapporteur.

D. Independent expert on the situation of human rights in Guatemala (see E/CN.4/1996/15)

31. During 1995, the independent expert was informed about several cases of intimidation and threats against members of the judiciary working on human rights cases who had cooperated with United Nations human rights mechanisms. These include death threats received by: the Fiscal General de Guatemala, (General Prosecutor of Guatemala) Ramsés Cuestas, his wife and other relatives; Ramiro Contreras, Fiscal Especial appointed to investigate the Xaman massacre, in which 13 internally displaced persons had been killed; and Julio Arango Escobar, Fiscal appointed to investigate the disappearance of Efrain Bamaca. Julio Arango Escobar resigned from the case, claiming personal reasons, after an unidentified man reportedly fired at his office on 22 June 1995.

E. Special Rapporteur on the situation of human rights in Iraq (see E/CN.4/1996/61)

32. The Special Rapporteur was informed about the killing of an Iraqi woman and the serious injuries caused to two others, after they were run over by a car while crossing 14th Ramadhan Street in Baghdad on 15 August 1995. According to the information received by the Special Rapporteur, the attack was a reprisal for their brother's activities in the defence of human rights, including providing information to several international non-governmental organization, as well as to the Special Rapporteur.

F. Special Rapporteur on the situation of human rights in Myanmar (see E/CN.4/1996/65)

33. On 15 January 1996, the Special Rapporteur sent a letter to the Government of Myanmar in which he expressed concern for the safety of Saw Naing Naing, a member of Parliament, Monywa Tin Shwe, a lawyer, U Win Tin, a prisoner of conscience, Myo Myint Nyein, a magazine editor and Myint Aung, also a member of Parliament, after receiving reports according to which prison officials had begun interrogating these five persons about letters which had been smuggled out of Insein Prison to the Special Rapporteur. As a result, they were being forced to sleep on concrete floors, and were denied access to their families. The Special Rapporteur recalled to the authorities of Myanmar the provisions of resolution 1995/75.

G. Special Rapporteur on the situation of human rights in Rwanda (see E/CN.4/1995/68)

34. The Special Rapporteur was informed about several cases of intimidation of and reprisal against individuals who had been in contact with United Nations human rights mechanisms or who had provided information to the Special Rapporteur. The enforced disappearance of Manasse Mugabo, a 32-year-old journalist in charge of the Kinyarwanda section at Radio UNAMIR, after leaving his house on 19 August 1995 to travel to Uganda through the border post at Gatuna, was brought to the Special Rapporteur's attention. He was also informed that on the morning of 11 December 1995, Jean Baptiste Barambirwa, President of the Collectif des Ligues et Associations de Défense des Droits de l'Homme au Rwanda (CLADHO), had been arrested by a group of four men, including an armed soldier, after giving a speech the evening before at the "Hotel des Diplomates" in Kigali, on the occasion of the closing ceremonies for Human Rights Week. Reportedly, in that speech he had criticized several aspects of the human rights situation in Rwanda, and, according to the information received by the Special Rapporteur, during his detention he was interrogated about several points in his speech.

35. The detention, on 18 November 1995, of Théobald Gakwaya Rwaka, Vice-Chairman of the Parti démocrate chrétien and member of the Ligue rwandaise pour la promotion et la défense des droits de l'homme, in Nyakabanda, commune of Nyarugenge, by a group of gendarmes was also brought to the Special Rapporteur's attention. While in detention he had been interrogated about a speech he had given in August during a workshop regarding

arrest and detention procedures, in which he had taken a critical position regarding the human rights situation in the country. He was released on 14 December 1995.

36. The Special Rapporteur was also informed about the case of Andre Sibomana, editor of Kinyamateka and Chairman of the Association rwandaise pour la défense des droits de la personne et des libertés publiques, who had been threatened on various occasions. Reportedly he had been active denouncing human rights violations committed by the current and former Governments of Rwanda.

H. Special Rapporteur on the situation of human rights in the Sudan (see E/CN.4/1996/62)

37. At the fiftieth session of the General Assembly, the representative of the Government of the Sudan provided a response to the statement made by the Special Rapporteur, in which reference was made, inter alia, to the reasons why the Special Rapporteur had been denied access to the Sudan. In this response, the representative of the Sudan stated "we don't want to speculate about his fate if he is to continue offending the feelings of Muslims worldwide ... as he did in his current interim report".

38. In addition, in its response to the interim report of the Special Rapporteur on the situation of human rights in the Sudan, the representative of the Government of the Sudan stated the following:

> "As for the substance of that indirect call by the Special Rapporteur for the abolition of Shariah laws contained in his interim report and summed up in paragraph 82 (a) of that report, we will explain how such a call is a violation of the freedom of religion when we respond to paragraph 26 of the interim report. In this respect, our call for the General Assembly is as follows: (a) ...; (b) Take the necessary remedial measures to comfort the feelings of Muslims worldwide for the unwarranted challenge to Islam posed by those references, otherwise no one would be in a position to guarantee that he would not face the fate of Mr. Salman Rushdie."

I. Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia (see E/CN.4/1996/63)

39. The Special Rapporteur was informed that lawyers, journalists and NGO activists active in the promotion and defence of human rights had been frequently subjected to anonymous phone or letter threats. Some had been subjected to police interrogation because of their human rights activities.

40. The following persons, who have been cooperating with United Nations mechanisms, were said to have been threatened and harassed because of their human rights activities: Tonci Majic, President of the Dalmatian Committee for Human Rights, Split; Miso Rogosic, member of the Dalmatian Committee for Human Rights; Ivan Ozic, President of the Dalmatian Committee of Solidarity, Split; Mirko Franceschi, a lawyer from Split; Ivan Yvonimir Cicak, Chairman of the Croatian Helsinki Committee; Slobodan Budak Deputy Chairman of the

Croatian Helsinki Committee; Petar Mrkalj, a member of the Croatian Helsinki Committee; Ms. Branka Skansi, a lawyer from Dubrovnik; Srd Jaksic, a lawyer from Dubrovnik; Dusan Busic, a lawyer from Karlovac; Dejan Deajanovic, former President of Lawyers Chamber in Karlovac; Dorde Stojakoyic, a lawyer from Karlovac; Vaso Dobric, judge of the Municipal Court in Karlovac; Nikola Pavlovic, a lawyer from Karlovac. Some of them had met with the Special Rapporteur during their missions to the territory of the former Yugoslavia.

J. Special Rapporteur on the situation of human rights in Zaire (see E/CN.4/1995/67)

41. During 1995, the Special Rapporteur was informed that, on 13 July 1995, Mohamed Amr Razzak, a United States law student and member of the International Human Rights Law Group, doing an internship at the Centre des droits de l'homme et du droit humanitaire, in Lubumbashi, had been arrested and taken to the Service national d'intelligence et de protection for interrogation while being denied permission to contact the United States consulate. He was set free the following day without being charged, on the condition that he left the country within the next three days.

42. The Special Rapporteur sent an urgent appeal on 23 November 1995 to the Government of Zaire, reminding it of resolution 1995/75, after Muller Ruhimbika and five other persons of Banyamulenge origin had been arrested in Uvira, shortly after having met with the Special Rapporteur during his visit to Zaire. Muller Ruhimbika had made an appeal to the international community to put pressure on the Government to stop expulsion measures against the Banyamulenge population.

43. Another urgent appeal on behalf of human rights organizations was sent by the Special Rapporteur on 12 July 1995, after he had been informed about acts of intimidation and harassment against the Association Zairoise de Défense des Droits de l'Homme (AZADHO). Reportedly, since February 1995 several members of AZADHO had been harassed and sometimes beaten by local administration agents and the offices of AZADHO in Kindu, Maniema, had been closed on 23 February 1995.

II. CONCLUDING OBSERVATIONS

44. Information received by different United Nations human rights bodies and mechanisms indicates that acts of intimidation and reprisals against human rights activists and non-governmental organizations continue to occur in a number of countries. Violence against international humanitarian workers, including killings of, or death threats against, United Nations officials has also been recorded.

45. Alleged victims of reprisals included witnesses and victims of human rights violations and their relatives. They also included officials involved in the investigation of cases reported to United Nations human rights bodies, in particular members of the judiciary. Organizations and private individuals who regularly submit information to the United Nations on human rights matters, as well as individuals who had personally met with representatives of United Nations human rights bodies, were also subjected to intimidation and

reprisals. United Nations officials who have cooperated with United Nations human rights mechanisms were another group targeted by acts of intimidation and reprisal.

46. The various United Nations human rights mechanisms have expressed concern at the fact that, in many cases, those allegedly responsible for acts of intimidation and reprisal appear to enjoy virtual impunity, thus encouraging the perpetuation of similar acts.

47. It is also disturbing to note that urgent appeals have been sent by the concerned Special Rapporteurs and Working Groups on repeated occasions for the same individuals and organizations, and that the Governments in question have either not answered these communications, or have provided unsatisfactory replies to the requests for investigations into the allegations. In some instances, despite appeals requesting protection for members of human rights organizations, some of them were killed shortly after.

48. A number of cases of violations of human rights affecting lawyers and members of the judiciary, who have been attacked, threatened and even killed, have not been included in this report for the reason that, although they were defending human rights in accordance with international human rights instruments, they utilized domestic remedies. An interpretation strictu sensu, of resolution 1995/75 does not allow the inclusion of these cases in the categories referred to in the resolution. In this context, the Commission may wish to consider whether an amplification of the mandate to include cases of persons who have been harassed and intimidated because of their efforts to avail themselves of any of the procedures aimed at protecting human rights, whether national or international, would not facilitate a more comprehensive analysis.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Human rights violations in the Papua New Guinea island of Bougainville

Report of the Secretary-General

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All-Bougainville Leaders' Talks, Cairns, Australia, 14-18 December 1995, Joint Communiqué 5

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HUMAN RIGHTS VIOLATIONS IN THE PAPUA NEW GUINEA ISLAND OF BOUGAINVILLE

Report of the Secretary-General

INTRODUCTION

1. The present report is submitted in pursuance of paragraph 7 of resolution 1995/65, adopted by the Commission on Human Rights on 7 March 1995.

2. Since the Commission last considered this question, a 27-member Transitional Government, composed of the heads of the local interim authorities and other appointed members was installed in Bougainville in April 1995 to carry out the functions of a provincial government pending agreement on the constitutional status of the island. The Bougainville Revolutionary Army (BRA) refused to take up the seats reserved for it in the Transitional Government.

3. In June 1995, the Parliament passed the new Organic Law on Provincial Governments and Local-Level Governments, which will come fully into effect in 1997. The Law, which reorganizes provincial and local governments by essentially doing away with elected provincial assemblies and strengthening the local-level governments, exempts the Bougainville Transitional Government from its provisions until 1997, in recognition of the special circumstances of the province.

4. At the invitation of the Government of Papua New Guinea, the Special Rapporteur on extrajudicial, summary and arbitrary executions visited the country, including parts of the island of Bougainville, from 23 to 28 October 1995 (see E/CN.4/1996/4/Add.2). It will be recalled that in its resolutions 1994/81 and 1995/65, the Commission had requested the Government to extend invitations to the relevant thematic rapporteurs. The Government also took the decision in principle in December 1995 to establish a national human rights commission.

5. Representatives of the Bougainville Transitional Government (BTG) and of the Bougainville Interim Government (BIG) met in Cairns, Australia, from 9 to 12 September 1995 for preliminary talks to identify problems and address areas of common understanding and to lay the groundwork for an all-inclusive meeting of Bougainvillean leaders with the participation, subject to the concurrence of the Government of Papua New Guinea, of representatives of the United Nations and of the Commonwealth.

I. THE ALL-BOUGAINVILLE LEADERS' TALKS (CAIRNS)

6. Following a subsequent request by the Prime Minister of Papua New Guinea, the Rt. Hon. Sir Julius Chan, the Secretary-General again asked the Director of the East Asia and the Pacific Division in the Department of Political Affairs, Mr. Francesc Vendrell, to undertake a new round of discussions with the Government of Papua New Guinea and the main Bougainvillean parties and to participate in the All-Bougainville Leaders' Talks which were eventually held in Cairns, from 14 to 18 December 1995.

7. The Representative of the Secretary-General visited Port Moresby from 11 to 13 December 1995 and held talks with the Prime Minister, who serves concurrently as Minister for Foreign Affairs, and with senior government officials, as well as with members of the National Security Advisory Council. He also met with the Chairman of the Constitutional Reform Commission, the Hon. Ben Micah, MP, and with the newly appointed Commander of the Papua New Guinea Defence Force (PNGDF), Brigadier General Jerry Singirok.

8. In the course of his meeting with the Representative of the Secretary-General, the Prime Minister voiced flexibility concerning the future political status of Bougainville provided that it was consistent with the territorial integrity of Papua New Guinea. He stressed that the involvement of the United Nations, or of the Commonwealth, should not be used as a pretext by the Bougainville Interim Government (BIG) or the Bougainville Revolutionary Army (BRA) to "internationalize" an issue that was within the domestic jurisdiction of his country. He also expressed the hope that a political settlement in Bougainville could be reached by the middle of 1996 in order to enable the current Parliament to enact whatever legal instruments might be required prior to its dissolution by April 1997.

9. The All-Bougainville Leaders' Talks, which were held in Cairns from 14 to 18 December 1995, hosted by the Government of Australia, were attended by the delegations of the Bougainville Transitional Government (BTG), headed by the Premier, Mr. Theodore Miriung and which included the four Bougainville members of the National Parliament, and of BIG, headed by Mr. Joseph Kabui and including the BRA Military Commander, Mr. Sam Kauona, and most of the BRA field commanders. Between them the two delegations comprised virtually all major Bougainville political personalities, the first time that such a gathering had taken place since the outbreak of the conflict in 1989. The central Government was not represented at the Talks, which were meant to provide a forum in which Bougainvilleans could discuss among themselves and possibly reach consensus on means of achieving a political solution to the conflict. At the request of both delegations, the Talks were jointly chaired and facilitated by the Representative of the Secretary-General and by the Representative of the Secretary-General of the Commonwealth, who had also been invited to attend the meeting.

10. The two delegations reached agreement on a joint communiqué (see annex) committing themselves to a process of dialogue that would permit the achievement of a political settlement to the conflict and expressing their intention to convene a new round of talks inside Bougainville in 1996, to be preceded by a series of preparatory meetings with the facilitation of the United Nations Secretary-General at a venue to be determined. They also agreed on an agenda for future talks and on the desirability of reaching early agreement so that talks could be held between the Government of Papua New Guinea and the Bougainville leadership. They further agreed, subject to the concurrence of the Government of Papua New Guinea, to the continued association of the Secretaries-General of the United Nations and of the Commonwealth in the ongoing discussions and in their eventual outcomes. Both parties accepted a proposal by the Representative of the Secretary-General that, as a confidence-building measure which would have an immediate positive impact on the people of the island, immediate access should

be granted throughout Bougainville to the United Nations Children's Fund (UNICEF) and other donor organizations for the implementation of health-care programmes, especially child immunization. The representative of BTG, the United Nations and the Commonwealth stated that the understandings reached at Cairns were subject to the agreement of the Government of Papua New Guinea.

11. Following the conclusion of the Talks, the Representative of the Secretary-General flew to Port Moresby to brief the Prime Minister on their outcome.

II. DEVELOPMENTS SINCE THE CAIRNS TALKS

12. The momentum generated by the positive outcome of the Talks in Cairns has since been marred by a series of incidents which have cast a cloud over the peace process. The boat carrying members of the BIG/BRA delegation returning from the Cairns Talks was reportedly shot at in early January and later that month, the home and office of the BIG representative in Honiara was destroyed in suspected arson. At the same time, a marked increase has been reported in the number of rebel attacks on the security forces, civilians and government installations throughout Bougainville. The Government of Papua New Guinea has yet to communicate to the Secretary-General whether it has given formal approval to the agreements arrived at in Cairns and has insisted that the preliminary meetings foreseen in the Cairns communiqué take place in Papua New Guinea territory, something which the BIG/BRA are unwilling to accept, citing security considerations.

13. On 21 March 1996, the Government of Papua New Guinea announced the lifting of the cease-fire that had been signed with the BIG in September 1994 as part of the Honiara Commitments which led to the establishment of the Regional Peace-keeping Force deployed at the time of the Arawa Conference in early October 1994. The Government stated that this had been necessitated by the "recent spate of unprovoked hostile killings" perpetrated by the BRA.

14. These developments, as well as the lack of security on the island, have prevented the Representative of the Secretary-General from visiting Bougainville prior to the submission of this report, stopped the United Nations Development Programme (UNDP) from beginning to implement the programme it has elaborated for the reconstruction and rehabilitation of Bougainville and barred UNICEF from carrying out the immunization programme which the two Bougainvillean parties agreed in Cairns to facilitate.

15. The Secretary-General regrets this recent negative turn of events, which he hopes marks only a temporary departure from the road towards a political settlement to which both the Government and the Bougainvillean parties in their meetings with his Representative have said they are committed. In his view, only a resumption of the peace process and patient perseverance in the negotiations can bring an end to the conflict in Bougainville, with all the consequent loss of lives and property and destruction of the island's infrastructure, be brought to an end. The Secretary-General, for his part, remains ready to assist in facilitating a resumption of this process.

Annex

ALL-BOUGAINVILLE LEADERS' TALKS
CAIRNS, AUSTRALIA

14-18 December 1995

JOINT COMMUNIQUE

1. The delegation of the Bougainville Transitional Government (BTG) and the delegation of the Bougainville Interim Government (BIG) held Talks in Cairns, Australia, from 14 to 18 December 1995 under the joint chairmanship of the representatives of the Secretary-General of the United Nations and of the Secretary-General of the Commonwealth. A list of participants is at Annex 1.

2. The two delegations have agreed to enter into a process of dialogue that will permit the achievement of a political settlement to the Bougainville conflict.

3. The delegations of the BTG and of the BIG expressed their intention to convene a new round of Talks in Bougainville in March/April 1996. In order to ensure the success of the Talks, they have agreed to hold a series of preparatory meetings comprised of four members from each side, with the facilitation of the United Nations Secretary-General, at a venue to be determined.

4. Both sides agreed, subject to the concurrence of the Papua New Guinea Government, to the continued association of the Secretary-General of the United Nations and of the Secretary-General of the Commonwealth in the ongoing discussions and in their eventual outcomes.

5. Representatives of the International Commission of Jurists (ICJ) and the Unrepresented Nations and Peoples Organisation (UNPO) have participated and may continue to participate in an observer capacity in the Talks. Other non-governmental organizations may be granted similar observer status with the consent of all the parties to the Talks.

6. At each round of Talks, the delegations will determine the degree of confidentiality that will apply.

7. The two sides have reached agreement on the Agenda for the All-Bougainville Leaders' Talks (see Appendix), it being understood that the discussion of the items need not follow the order in which they are enumerated.

8. The two sides will endeavour to reach early agreement on the issues covered in the Agenda so that talks may be held between the Government of Papua New Guinea and the Bougainville leadership.

9. All parties to the Talks agree on the need for access to be immediately granted throughout Bougainville to UNICEF and relevant donor organizations for the implementation of health care programmes, especially child immunization.

10. In so far as the BTG, the United Nations and the Commonwealth Secretariat are concerned, the understandings contained in this document are subject to the agreement of the Government of Papua New Guinea.

11. The delegations expressed their appreciation to the Government of Australia for the excellent arrangement it had made for hosting the meeting.

12. The Representatives of the Secretary-General of the United Nations and of the Secretary-General of the Commonwealth will report to the Government of Papua New Guinea on the results of the current talks.

Signed in the presence of the Representatives of the Secretary-General of the United Nations and of the Secretary-General of the Commonwealth

Representing the BTG	Representing the BIG
Mr. Theodore Miriung BTG Premier the Delegation	Mr. Joseph Kabui Leader of the BIG, Leader of BTG Delegation
Mr. Michael Laimo, MP	Mr. Sam Kauona

Cairns, Australia
18 December 1995

Appendix

ALL-BOUGAINVILLE LEADERS' TALKS
CAIRNS, AUSTRALIA

14-18 December 1995

AGENDA

1. Cessation of violence and security issues, including
   Disarmament and demilitarization

2. Political issues, including
   Future status of Bougainville

3. Confidence-building, including
   Verification and monitoring

4. Human rights matters, including
   Freedom of movement
   Amnesty and pardon

5. Renewal and socio-economic development

6. Procedural issues and calendar